

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

DAVID SCOTT GOLDSTEIN, Plaintiff, vs. CENTER FOR DISEASE CONTROL, Defendant.	4:16-CV-04035-KES REPORT AND RECOMMENDATION
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Petitioner David Scott Goldstein filed this action pursuant to 28 U.S.C. § 2241 on March 14, 2016. Docket 1. Mr. Goldstein alleged he was being unlawfully confined at Avera McKennan Hospital pursuant to a confinement order issued by the Centers for Disease Control (CDC). The CDC ordered Mr. Goldstein to be isolated because it believed he was in the qualifying stage of the communicable disease, mycobacterium tuberculosis. Docket 1-1, pp. 3-4.

Respondent filed its answer and supporting declaration of Martin S. Cetron on April 4, 2016. Docket Nos. 9 and 10. Respondent confirmed Mr. Goldstein was served with a federal isolation order on February 21, 2016, and placed under guard by the United States Marshals Service due to his history of absconding from public health authorities and leaving a hospital against medical advice. Docket 9, p. 2. On March 11, 2016, after the conclusion of an administrative medical review hearing, the CDC ordered Mr. Goldstein transported to a secure medical facility in Columbia, South Carolina. Docket 10, p. 5.

On March 18, 2016, Mr. Goldstein filed a *pro se* § 2241 petition in the District of South Carolina. See Docket 11-1. Mr. Goldstein retained David W. Melnyk to

represent him regarding his involuntary confinement in South Carolina. See Docket 11-3.

On April 15, 2016, respondent filed the second declaration of Alison Ramsdell which indicates the CDC's isolation orders were rescinded on April 8, 2016, thereby releasing Petitioner from custody. See Docket Nos. 12 and 12-1. That same day an order to show cause was entered requesting the parties show cause by April 29, 2016, why this case should not be dismissed as moot. The order was served upon Mr. Goldstein, his South Carolina lawyer, David Melnyk, and respondent. As of this date, neither party has filed a response. Accordingly, it is hereby

RECOMMENDED that this action be dismissed as moot.

NOTICE TO PARTIES

The parties have fourteen (14) days after service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained. Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require de novo review by the District Court. Thompson v. Nix, 897 F.2d 356 (8th Cir. 1990); Nash v. Black, 781 F.2d 665 (8th Cir. 1986).

DATED this 20th day of May, 2016.

BY THE COURT:



VERONICA L. DUFFY
United States Magistrate Judge